

child." The woman who was not the real mother said, "No; divide the child." Solomon, of course, then knew who the real mother was, gave her the child, and the people were awed by his wisdom.

Here is our problem. We are debating over a child on the health care bill, and the child is the private practice of medicine in America. The child is a viable system run in the private sector by doctors and nurses and hospitals that are not run by the Government, but we are in an unequal debate because many on the other side seem to want that system to die so that we can have a Government-run system.

Under those circumstances, to simply have endless amendments would not serve any purpose, given not only the limited amount of time we have, but also because, more importantly, it puts us at a disadvantage because we have no interest in offering amendments that would drive up cost, kill off private health insurance, and leave people uninsured, whereas those who really believe that you first have to prove that the private health care sector cannot work and therefore you must have a Government-run system would view such an amendment exercise potentially as a step toward improving the health care system.

I simply state to my colleagues while this negotiating is going on, I will certainly support, and do support, a unanimous consent request where Senator KENNEDY and those who support him write the very best proposal they can write to strengthen patients' rights. We have written—and if we come up with better ideas, we will incorporate them—the best bill we can write that we believe achieves those objectives. Let's give Senator KENNEDY and those who support him an up-or-down, free-standing vote, unamended, to put before the Senate his best proposal, and let us vote yea or nay. Then give us an opportunity to put our bill—our best proposal—in front of the Senate and vote yea or nay.

But I am not interested in allowing amendments where one side of the debate can view it as positive to kill off the private sector of medicine in America and whereas those of us who believe that its survival is critical to quality medicine in America would be forever disadvantaged in that debate.

So I want to call on those who have for 6 months said to us: "The No. 1 issue in the country is patients' rights. Give us an opportunity to vote on our bill." I want to call on them to bring their bill to the floor of the Senate and let us vote on it. Let us vote up or down. We will not amend Senator KENNEDY's bill. If he has reached legislative perfection, at least in terms of what he thinks he can pass, then let us vote on it. And then let us vote on our bill.

But I intend to object to any unanimous consent request that would have the effect I've described. I hope that reason will prevail and we will have an

up-or-down vote on the two alternatives. Those who want a bill, I do not see how they could view that as being an unfair proposal. It is a proposal that 6 months ago I would think that the minority would have jumped at.

Today, they want the ability to have 20 amendments. They do not want to set a calendar time limit. That process could go on and on and on. I do not have any desire to amend their bill. We want an opportunity to vote on ours. Let the Senate choose. I think it would be the right way to go about it, and the only way we can be successful in the end.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we are going to have a lot of time to debate health care. I suspect the Senator from Kentucky may want to respond to the Senator.

Mr. FORD. Thirty seconds.

The Senator from Texas said time and time again that we were destroying the medical system. With the AMA and 170 medical organizations in this country for our particular bill, I do not believe there is any indication that we are trying to destroy the medical profession in this country.

Several Senators addressed the Chair.

Mr. GREGG. Reclaiming my time.

Mr. FORD. I said 30 seconds.

Mr. GRAMM. Will the Senator yield?

Mr. GREGG. Did the Senator from Kentucky get his 30 seconds?

The PRESIDING OFFICER. The Senator from Kentucky used 18 seconds.

Mr. GRAMM. Will the Senator yield—

Mr. GREGG. I would like to move on with the bill, to be quite honest with you. I will yield the floor, but I hope we can move to the completion of this bill.

The Senator from Arizona has been waiting, along with the Senator from Utah, to get an amendment completed that we worked on for a few hours here. It would be nice if we could wrap that up. Then, if you want to come back to the health care debate, that is great.

I ask unanimous consent that the next Member to be recognized be the Senator from Arizona.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object and suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection to the request?

Mr. HATCH. Could I ask the distinguished Senator from Texas to withhold his objection? This should not—

Mr. GRAMM. Mr. President, I withhold. I withhold my suggestion of the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire has asked for unanimous consent. Is there objection?

Mr. GREGG. I withdraw the unanimous consent request.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield the floor?

Mr. GREGG. I yield the floor.

Mr. HATCH. Will the Senator yield 30 seconds to me?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I will be 20 seconds. If the Senator has support, if he has a good bill, let us bring it before the Senate and vote on it.

Mr. FORD. In my strategy and not yours.

Mr. GRAMM. If we are going to have a unanimous consent request, we have to have the agreement of the Members. And I am not going to agree to that particular process.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. MCCAIN. Mr. President, I certainly was entertained by the exchange. And I know that the Senator from Utah is going to speak right after me. I hope he will have some biblical stories as well. The biblical lesson that I am about to propound has to do with the fact that two well-meaning and well-intentioned Americans can join together and resolve our problems and differences.

Mr. President, earlier today an amendment of mine was accepted that unintentionally the Senator from Utah, the distinguished chairman of the Judiciary Committee, was unaware of. After vigorous discussion, the Senator from Utah and I have agreed, along with the Senator from Vermont, the ranking member of the Judiciary Committee, that we would modify that amendment and that basically what this means is that the cable rates would be held in moratorium until March 31, 1999.

Mr. President, this is a serious issue. The chairman of the Judiciary Committee and I also know that it is serious, and we intend to work together and get this issue resolved so that there is meaningful competition to the rising cable rates in America which have gone up 9 percent last year and 8 percent again this year.

I think we reached an agreement that makes both of us slightly unhappy but I think will move this process along. I look forward to working with him in the weeks ahead, and hopefully by perhaps September we can get an agreement and move forward on this issue.

VITIATION OF VOTE—AMENDMENT NO. 3229

Mr. President, before the Senator from Utah speaks, I ask unanimous

consent that the vote on amendment No. 3229 be vitiated.

The vote on amendment (No. 3229) was vitiated.

AMENDMENT NO. 3229, AS MODIFIED

Mr. MCCAIN further ask unanimous consent that a modification of the amendment which is at the desk be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3229), as modified, was agreed to as follows:

At the appropriate place, insert the following:

SEC. . MULTICHANNEL VIDEO PROGRAMMING.

(a) Notwithstanding any other provision of law, the Copyright Office is prohibited from implementing, enforcing, collecting or awarding copyright royalty fees, and no obligation or liability for copyright royalty fees shall accrue pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of \$0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before March 31, 1999. This shall have no effect on the implementing, enforcing, collecting, or awarding copyright royalty fees pursuant to the royalty fee structure as it exists prior to October 27, 1997.

Mr. MCCAIN. I thank the Senator from Utah for his continued cooperation and offer my commitment to work with him and his staff.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my friend and colleague from Arizona for being willing to work out this difficulty. There was, I think, a misunderstanding on this matter. We have reached an acceptable compromise that will encourage us to work together on these issues for the benefit of all of our constituents and the affected industries with deliberate speed. I hope that we can work together to fashion a comprehensive reform of the relevant laws and regulations that will increase the range of options that television viewers will have.

The rates will be rolled back until early next year; that is, until March 31, when we would hope and expect Congress to be able to adopt meaningful comprehensive reform of the issues affecting the satellite industries and their customers.

So, again, I want to thank my colleague for being willing to vitiate the prior vote, being willing to work out this compromise, and I express my desire to work together with him as chairman of the Judiciary Committee, and I believe my colleagues on the Judiciary Committee will as well with him, as chairman of the Commerce Committee, and hopefully we can resolve the matters in the best interests of all Americans—both individuals and affected industries. And, again, I just express my appreciation.

Parliamentary inquiry. Is that modification accepted?

The PRESIDING OFFICER. The amendment was agreed to, as modified.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 3240

(Purpose: To prohibit foreign nationals admitted to the United States under a non-immigrant visa from possessing a firearm)

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3240.

Mr. DURBIN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. . FIREARMS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d), by striking paragraph (5) and inserting the following:

“(5) who, being an alien—

“(A) is illegally or unlawfully in the United States; or

“(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));”;

(2) in subsection (g), by striking paragraph (5) and inserting the following:

“(5) who, being an alien—

“(A) is illegally or unlawfully in the United States; or

“(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));”;

(3) in subsection (s)(3)(B), by striking clause (v) and inserting the following:

“(v) is not an alien who—

“(I) is illegally or unlawfully in the United States; or

“(II) subject to subsection (y)(2), has been admitted to the United States under a non-immigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));”;

(4) by inserting after subsection (x) the following:

“(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘alien’ has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

“(B) the term ‘nonimmigrant visa’ has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

“(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

“(A) admitted to the United States for lawful hunting or sporting purposes;

“(B) an official representative of a foreign government who is—

“(i) accredited to the United States Government or the Government’s mission to an international organization having its headquarters in the United States; or

“(ii) en route to or from another country to which that alien is accredited;

“(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

“(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

“(3) WAIVER.—

“(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

“(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

“(ii) the Attorney General approves the petition.

“(B) PETITION.—Each petition under subparagraph (B) shall—

“(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

“(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

“(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

“(i) would be in the interests of justice; and

“(ii) would not jeopardize the public safety.”.

Mr. DURBIN. Mr. President, I would like to explain this amendment. It is rather simple, straightforward. It is, again, on the issue of guns. I am hoping now, for the first time today, that we can find some consensus on that issue. And I have spoken to some of my former adversaries, and there may be a chance. But I would like to explain what this amendment does.

Earlier today, we have said in our votes on this floor—this body has said—that when it comes to requiring people who purchase guns in the United States when they purchase a handgun to buy a trigger lock, we voted no, they should not be required to buy a trigger lock. Then we said, if you are going to have a criminal background check when you buy a gun in this country, you do not have to pay for it; other taxpayers have to pay for it; it is free. Those are the two votes so far.

I hope that I am going to broach a subject here where we can find some common ground on the issue of owning guns. Remember with me, for a moment, last year when there was a terrible killing at the Empire State Building. Gun violence in America, unfortunately, is not novel. We read about it every day, and we see it on the news.

But it struck me as odd when I heard about this case because, if you will remember—and I think I have the sequence correctly—a resident of the Nation of Lebanon came to the United States on a nonimmigrant visa, such as a tourist visa. When he arrived in the United States, he visited the State of

Florida, which has relatively lax laws in terms of the purchase of firearms. He bought a firearm in Florida, took it up to the Empire State Building, and gunned down several innocent people, other tourists at the Empire State Building.

It struck me as odd that while we enshrine the right of American citizens to own firearms, we apparently have few, if any, ways to check when people come into this country to buy a gun as to whether or not they are citizens of this country.

So in this case, a man from another nation, a tourist, bought a gun and killed innocent Americans. I think that goes too far. I think, frankly, we ought to say that if you come into this country as our guest, not as a citizen of the United States, that we are going to restrict your right to purchase a firearm. You are not a citizen of our country; we have a right to impose such restrictions on you.

So here is what we do: We say to the Immigration and Naturalization Service, send over, through your computers, the names of those who are in this country legally on these visas; we will put them into our background check. If this individual had shown up at a gun store and said, "I want to purchase a gun," they would put his name in the computer. And if he came up as a nonimmigrant visa holder, not a citizen of the United States, they would have said, "No"; and had they said no to this man, several Americans might be alive today.

I don't think that is an unreasonable requirement. In considering this amendment, I should think that people might question whether or not it is our obligation in this Nation, under the Constitution or otherwise, to arm people who come to visit us. I am not sure it is.

Now, we do make exceptions, and I want to make certain that those who read this amendment understand the exceptions. We tried to imagine the exceptions of those coming to the United States on nonimmigrant visas who might need to own a gun for very real and legal purposes.

Here are the exceptions that we included: We said if you are someone who has come to the United States for lawful hunting or sporting hunts—so you have someone who enjoys hunting and can legally do so in the United States, who comes here for that purpose, goes to the far west, wherever it might be, that person is exempt. That person may purchase a gun while here for that purpose.

An official representative of foreign governments—certainly, any head of state brings a security contingent with him and that person may possess a gun.

Those who are credited with the U.S. Government's mission to an international organization; those en route from one country to another; an official of a foreign government or a distinguished foreign visitor, a foreign law enforcement officer.

We try to say these are categories of people which might in the ordinary course of events have a gun, need to purchase a gun, for very legitimate purposes.

Now, what about those who are there on a nonimmigrant visa for a longer period of time? I am willing to concede that some are here for maybe even years legally on nonimmigrant visas and may need a gun at some point. We even put a provision in for that.

A waiver of this requirement—if a person has resided in the United States for 180 days and can provide a statement to our Government from his Embassy or consulate that says he is authorized to acquire a firearm and he doesn't have a criminal record in his home country.

So I think we have created exceptions which will allow those people who are here on nonimmigrant visas, who are not here to commit a crime, an opportunity to purchase or own a firearm. Yet we have said that tourists from any nation who comes in, buys a firearm, commits an act of terrorism or murder, is not welcome. We are not going to make it easy for them.

That is the amendment which I have offered. I hope that those who are mulling over its provisions will come to the conclusion that it is not an unreasonable suggestion. I hope those who visit our country understand they are welcome. When it comes to purchasing a gun, which may lead to a violent crime, we are at least going to ask some questions. I think the people of America expect us to ask those questions.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DURBIN. Has there been a unanimous consent agreement in terms of this pending amendment or any others considered this evening?

Mr. GREGG. No.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AL-LARD). Without objection, it is so ordered.

AMENDMENT NO. 3240, AS MODIFIED

Mr. DURBIN. Mr. President, I have sent a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment is so modified.

The amendment (No. 3240), as modified, is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. ____ FIREARMS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d), by striking paragraph (5) and inserting the following:

“(5) who, being an alien—

“(A) is illegally or unlawfully in the United States; or

“(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)))”;

(2) in subsection (g), by striking paragraph (5) and inserting the following:

“(5) who, being an alien—

“(A) is illegally or unlawfully in the United States; or

“(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)))”;

(3) in subsection (s)(3)(B), by striking clause (v) and inserting the following:

“(v) is not an alien who—

“(I) is illegally or unlawfully in the United States; or

“(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)))”;

(4) by inserting after subsection (x) the following:

“(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘alien’ has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

“(B) the term ‘nonimmigrant visa’ has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

“(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

“(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States; or

“(B) an official representative of a foreign government who is—

“(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

“(ii) en route to or from another country to which that alien is accredited; or

“(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

“(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

“(3) WAIVER.—

“(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

“(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

“(ii) the Attorney General approves the petition.

“(B) PETITION.—Each petition under subparagraph (B) shall—

“(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

"(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

"(i) would be in the interests of justice; and

"(ii) would not jeopardize the public safety."

Mr. DURBIN. Mr. President, I have been working with the Senator from Idaho, and I think we have reached an agreement on this, in which we provide language that says if a person who comes to the United States on a non-immigrant visa is in possession of a hunting license or permit lawfully issued within the United States, they then would not be covered by the provisions of this law. That is consistent with the original language of the amendment.

At this point, I yield to the Senator from Idaho.

Mr. CRAIG. Mr. President, I appreciate the willingness of the Senator from Illinois to modify his amendment. I think it is necessary and appropriate, and certainly the public understands that hunting is a lawful right and opportunity in this country. Certainly, foreign citizens who are here that go through the legal and necessary steps should be allowed that opportunity, and to acquire a gun for that purpose while here is necessary and fitting.

I agree with the Senator from Illinois that he deals with a very important area of the law. We have seen it misused by aliens in this country. Our second amendment is something that we honor, that many of us feel is a very important right of our citizens under the Constitution. It should not be abused by those who are guests in our country, legally or illegally. I think the Senator from Illinois speaks clearly to that in the amendment. I appreciate his offering it.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I think the Senator from Illinois has proposed a strong amendment here, and it has been strengthened further by the Senator from Idaho.

I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3240), as modified, was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BORDER PATROL AVIATION

Mr. BIDEN. Mr. President, I would ask to engage the Senator from New

Hampshire, Mr. GREGG, in a brief colloquy regarding a portion of the report which accompanies the bill, calling on the Border Patrol to examine the potential cost savings and border surveillance capabilities of a variety of types of aircraft. I support the committee's effort to seek more information to improve the cost effectiveness and efficiency of our border surveillance effort—against both illegal immigration and drugs. But, I also believe that we must review all types of aircraft, including both manned and unmanned airships. Is it the Committee's intent that such airships also be considered in the study and report?

Mr. GREGG. I appreciate the Senator's concerns on this subject. The committee believes that the full range of aircraft options, including airships, should be examined by the Border Patrol to assist our efforts to ensure the most cost-effective and efficient ways to protect our borders from both illegal immigration and the flow of drugs.

Mr. BIDEN. I thank the Senator for his interest in this matter and for his clarification of the committee report.

CONGRESS-BUNDESTAG YOUTH EXCHANGE PROGRAM

Mr. LUGAR. Mr. President, I would like to engage the distinguished chairman of the subcommittee in a brief colloquy on the Congress-Bundestag Youth Exchange Program (CBYX). I would like to hear his thoughts about German-American student exchanges and the reasons why the bill before us does not include any appropriation for these important exchanges.

Let me assert first of all that I am a strong and enthusiastic supporter of the CBYX program that has been in existence now for 15 years. I recall the enthusiasm in the Senate when, in 1983, the late Senator Heinz introduced the bill authorizing this exchange program. Many of us rose to endorse it and the legislation received unanimous support.

The legislation was inspired by the events surrounding the critical decision by the German Government to deploy United States Pershing-II missiles in Germany—a decision which, in my judgment accelerated the end of the Cold War. At the time, it became evident that there were fundamental misunderstandings within Germany of United States intentions and equally shallow perceptions about Germany in the United States.

The German Government felt the need for correcting misperceptions about the United States most acutely and initiated a process to establish and fund a youth exchange program with the United States. The Congress-Bundestag exchange program that emerged from those efforts was not just another bilateral exchange program. Rather, it has become an essential component of American foreign policy. With the imminent expansion of NATO eastward, it takes on an even more important role in promoting understanding between our two countries.

The Congress-Bundestag Youth Exchange program was launched jointly in 1983 by the U.S. Congress and the German Bundestag and has been funded by both governments in roughly equal amounts ever since.

Many of us on both sides of the aisle who were in Congress in 1983 spoke passionately in support of these exchanges. Those of us who follow the program closely and meet with the exchange students believe it is an essential component of American foreign policy.

Apart from expanding awareness of German and American institutions and culture, the international experiences and increased proficiency in language have become valuable assets in the students' continuing education and community life.

One of the unique features of the Congress Bundestag Youth Exchange Program is that the German Government virtually matches our contributions on a dollar-for-dollar basis. They try to match the number of students they send to the United States to those we send Germany. They would like to send many more students. When we increase or decrease our funding, they tend to increase or decrease their funding. Thus, if we zero out or decrease funding for this program, the German Government may do the same. In effect, that would be a double hit and a double calamity for United States-German relations.

Thousands of young people from Germany and from the United States are able to spend a year in the other country, live with host families and learn about one another. Thousands have become young Ambassadors for their country. They have strengthened our mutual interests.

Germany's strategic importance in Europe is self-evident. It enjoys the strongest economy in Europe and has cooperated in expanding both the European Union and NATO toward the East. It is poised to play an even greater role in international peacekeeping, international commerce, and the global economy. Moreover, there are more than 60 million Americans who trace their heritage to German origins, one of the largest, if not the largest, ethnic groups in the United States.

Could I ask the distinguished chairman of the subcommittee what has been the recent funding levels for the Congress-Bundestag Program and if the bill before us eliminates or reduces funding for the Congress-Bundestag program for fiscal year 1999?

Mr. GREGG. Funding for this program was at \$2.75 million for several years in the past but it declined to \$2.4 million and has been at or below that level in recent years. The current bill does not include any funding for the Congress-Bundestag Program but it does not prohibit any funding either. We suggest in the report language that there are other competing priorities which make it difficult to fund all requests for cultural and educational exchanges.

Mr. LUGAR. It is my understanding that this program is a very high priority of the administration and that the President has publicly stated that he wants to increase funding for the Congress-Bundestag Program in fiscal year 2000 to a level at least \$2.8 million—an amount substantially above recent levels.

Mr. GREGG. Yes. The President has announced his intention to request an increase for this program in the year following the current fiscal year. I will look forward to that request.

Mr. LUGAR. I understand the companion House bill includes funding for this exchange program at about \$2 million. Therefore, funding for the Congress-Bundestag Youth Exchange program for fiscal year 1999 will be an issue in conference. Is it the chairman's intention to restore funds for the CBYX program in conference?

Mr. GREGG. I would like very much to restore funding for this program—and for other exchanges as well. Unfortunately we are operating under tight budgetary constraints. As the senior Senator from Indiana knows, the number of international exchange programs have grown over the years and that is a reflection of their popularity and importance. Overall appropriations have not kept pace with the growth in the number of programs. The regrettable result of this shrinkage of funds and growth in demand for them means that some programs must be reduced.

But, I very much appreciate the Senator's strong argument in support of the Congress-Bundestag Youth Exchange program, particularly the foreign policy role it plays in strengthening our ties with an important European ally, Germany. I will keep your arguments very much before me when we negotiate with our House counterparts in conference.

Mr. LUGAR. I thank the chairman and appreciate his explanation. My original intention was to introduce an amendment to restore funding for the CBYX program but do not want to burden the managers with a specific earmark. Could the chairman give assurance that he will do all he can to restore funding for these exchanges. If he does, I will withdraw my amendment.

Mr. GREGG. You have made a strong argument on behalf of the program. And I will do my best to adjust existing programs to provide funding for the United States-German exchange program.

Mr. LUGAR. I appreciate your assurances. Mr. President, I would like to make a few additional comments on the Congress-Bundestag Youth Exchange Program.

For the past 15 years, some 11,000 young students from Germany and the United States have participated in these exchanges. German and American families have hosted these students in their homes and communities and formed enduring friendships and nurturing the ability to see each other through the other's eyes. The earliest

of these participants are mature adults now and have assumed responsible positions in their communities. I'm impressed that senior members of the German Government, including Chancellor Kohl and the President of the German Bundestag, Rita Sussmuth are personally involved in the program. Many others have invited American students to work in their offices, invited them into their homes and arranged for specific events on their behalf. Our German counterparts value this program very highly and promote it with enthusiasm.

In the end, we should support this program because it is in our interests to do so. It is one of our smallest international exchange programs but it reaps substantial foreign policy benefits. We should be sending more American students to Germany on this program. The German Government wants to increase the number of students they send here.

I should add that most of the American students selected for this exchange program are juniors or sophomores in high school. The standards are high. To be eligible, a student must have a 3.0 grade point or better and be a citizen or permanent resident of the United States.

Once again, I want to thank the distinguished chairman of the subcommittee. He has a difficult task of balancing growing and competing demands with increasingly sparse resources. I appreciate his understanding and courtesy and look forward to working with him and the committee to restore funding for the Congress-Bundestag Youth Exchange Program (CBYX).

IMPROVING SCHOOL SAFETY AND FIGHTING SCHOOL CRIME

Mr. ROBB. Mr. President, as many of my colleagues are aware, support for education has been at the top of my priorities since I began my career as a public servant.

I've worked for many years, and on several fronts, to strengthen our public schools and universities, and I've focused as well on an essential prerequisite for improving educational opportunities—a safe learning environment. Unfortunately, not all students share the privilege of attending a safe school.

Over the past year, tragic murders at schools across the Nation have chilled parents' hearts. Perhaps even more chilling are figures from a spring 1998 Department of Justice study, which indicates just how many schools, and schoolchildren, are at risk. In the past year, nearly 60 percent of all elementary and secondary schools reported at least one incident of criminal activity to the police. Roughly 20 percent of schools reported six crimes or more. One out of every ten schools reported a serious violent crime during the past year.

Mr. President, crime in school is a double threat—a threat not just to safety and property, but to our entire educational system. Parents should

worry about their children dodging homework, not dodging bullets. Teachers should be able to devote their energy to promoting academic achievement, not counseling victims. And students should be focused on their next exam, not on making it safely to the next class.

While the States have the primary responsibility for both education and criminal justice, and the Federal Government cannot give every neighborhood crime-free schools, I believe the Congress should do more. The Federal Government can help by supporting innovative efforts by local communities and law enforcement to improve safety, by sharing insights gained from these efforts with communities across the Nation, and simply by focusing attention on this problem.

During past Congresses, I supported prevention programs to assist local communities, including drug resistance education, school security grants, and the Gun Free School Zones Act. In 1993, I worked to create a Commission on Violence in Schools to study school safety. I've also voted for additional deterrence measures, including adult prosecution of armed juveniles who commit violent crimes, and increased funding for juvenile prisons.

Last fall, I proposed an amendment to permit funds available under the Community Oriented Policing Services Program (COPS) to go to school safety initiatives. COPS funding has been restricted in the past to hiring new police officers. The amendment I proposed, and the Senate adopted, expanded the use of COPS funding to reward innovative crime-reduction efforts by communities and law enforcement, to share knowledge about successful school-safety programs, and to raise public awareness about school crime. Thanks to the support of Senators GREGG AND HOLLINGS, \$17.5 million in grants were made available in fiscal year 1998. The grants will be awarded later this fall to communities across the Nation.

This spring, I spoke with Senators HOLLINGS and GREGG and urged them to continue and expand this program in fiscal year 1999, and I am grateful for their generosity and their commitment to the cause. The chair and ranking member provided more than \$210 million for a Schools Safety Initiative. Under this initiative, \$10 million will support research in technology to improve school safety, such as weapons detection equipment. Another \$25 million will fund community efforts to promote nonviolent dispute resolution, to train teachers and parents to recognize troubled children, and to strengthen families.

The bulk of the School Safety Initiative, \$175 million, will be administered under the COPS school safety program that I initiated last fall. I believe this funding level is a strong statement to students, parents, teachers, and law enforcement. This program indicates that school safety is a national priority, and

I hope schools and communities across the Nation will respond.

A number of schools in Virginia have already taken action. Some have set up anonymous crime tip lines for their students. Police in Richmond work with students to promote peaceful conflict resolution and drug resistance education. Other communities, such as Pulaski County, have actually placed police officers in schools.

One remaining concern I have is the attention to this issue will receive from future Congresses. In my view, the matter of school safety deserves sustained attention, and continuing support from the this body. There are several juvenile justice reform bills pending before the Senate, and I'd like to move forward on legislation in this area this year. Unfortunately, that appears unlikely.

Therefore, I look forward to working with my colleagues next year to schedule a full debate on juvenile justice issues, as a well as to provide continued support for school safety through the appropriations process during conference with the House this year and next.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3243

(Purpose: To amend the Federal Rules of Criminal Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3243.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II of the bill, insert the following:

SEC. 2. GRAND JURY RIGHT TO COUNSEL.

(a) IN GENERAL.—Rule 6 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (d), by inserting “and counsel for that witness (as provided in subdivision (h))” after “under examination”; and

(2) by adding at the end the following:

“(h) COUNSEL FOR GRAND JURY WITNESSES.—

“(1) IN GENERAL.—

“(A) RIGHT OF ASSISTANCE.—Each witness subpoenaed to appear and testify before a grand jury in a district court, or to produce books, papers, documents, or other objects before that grand jury, shall be allowed the assistance of counsel during such time as the witness is questioned in the grand jury room.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BUMPERS addressed the Chair.

Mr. GREGG. Will the Senator yield for a question?

Mr. BUMPERS. Yes.

Mr. GREGG. We were working on a unanimous consent agreement that would allow a second degree to be offered to the Senator's amendment, which would be reserved to the majority. Does the Senator object to such an option? It would be a relative second degree.

Mr. BUMPERS. I don't know. I need to meditate on that.

Mr. GREGG. That is why we are meditating on the yeas and nays.

Mr. BUMPERS. I noticed there was no prompt response on that side of the aisle to a request for the yeas and nays, so I assumed some sort of cabal was in the works.

Mr. GREGG. We would look forward to a vote on the Senator's amendment, but we do want to reserve the right to a second degree.

Mr. BUMPERS. I am not sure I look forward to voting on a second-degree amendment, but then it may be, if we are going to have a unanimous consent agreement of any kind, it might preclude a second-degree amendment.

Let me think about it.

Mr. GREGG. I thank the Senator.

Mr. BUMPERS. I want to suggest to each Senator that they meditate on this proposition.

The doorbell rings and the Senator's wife answers the door. There is a nicely dressed person, in a suit and tie, standing at the door. He hands her a paper, and she says, “What is this?”

He says, “That's a subpoena.”

She says, “What does that mean?”

He says, “That means that the district attorney, the United States attorney wants to question you.”

“Well, about what?”

“I don't know.”

“What does this paper mean?”

“It means that you don't have any choice. You must go down and appear before the grand jury.”

“Well, how long will that take?”

“Well, as a matter of fact, sometimes it takes several days. Some witnesses have been known to have to appear for 5 and 6 and 7 days, different times.”

“But I don't know anything. What can I testify to?”

“Ma'am, I'm just a functionary. I have been requested, and it is my official duty to present you with this subpoena. Incidentally, the U.S. attorney also wants you to bring all of your telephone calls and also any other documents or letters you may have in your possession that would relate to anything.”

“Well,” she says, “Do I get to bring a lawyer with me?”

“Oh, yes, ma'am, you can bring a lawyer.”

Then she says, “Well, can my lawyer sit in the grand jury room with me?”

“No, ma'am, I'm afraid not. Your lawyer can sit outside the grand jury room but he can't come in the room with you.”

Now, to a lot of people, this is a real story. This is not an Orwellian bad dream. This is what happens to a lot of innocent people in this country on a daily basis. She doesn't have any choice but to show up.

If she had been arrested and charged with a crime, and she was a possible criminal who was about to go on trial and serve jail time if convicted, she would have a constitutional right to a lawyer, or to remain silent. She would not have to tell the U.S. attorney anything. She could remain silent. She could not only remain silent; she would be provided a lawyer if she could not afford one.

How many times has every person in the Senate stood on this floor and said criminals have more rights than ordinary citizens?

In this case, it is true. I just gave you a classic illustration of why it is true. If this woman were arrested by the police, or charged with a crime, they couldn't treat her in such a way. But, because she is an ordinary witness, an innocent citizen, she can be made to go and testify. She can be made to bring any documents the U.S. attorney chooses to make her bring. She can be required to walk in the grand jury room and sit alone on the stand in abject terror because her lawyer is not permitted in the room with her; he must sit outside.

It is true that she can ask for a recess, leave the witness stand and say to the court, say to the U.S. attorney:

“Before I answer that question, I would like to talk to my lawyer.”

He says, “OK.”

So she goes outside and she asks her lawyer, to whom she has just paid a \$5,000 retainer because she is terrified—not because she has done anything wrong—she has just paid this lawyer \$5,000. They are people of very modest means. He cannot go in the grand jury room, but she can go out and ask him a question. She is not a lawyer and she is not sophisticated enough to know on what questions should she defer to her lawyer. She could answer the most incriminating question in the world, in all of her legal ignorance, and not know she had just implicated herself.

What if she says to the man who appeared at her door with a subpoena:

“You say you don't know what they want to talk to me about?”

He says, “Well, it's about the parking meter scandal.”

“I don't know anything about any parking meter scandal.”

“Well, I'm sorry, ma'am.”

She says, “If they asked me something and I can't remember it, or if I try to remember and I give them an answer and it turns out to be wrong, then what happens?”

“Oh, then in that case, ma'am, they may charge you with perjury.”

Here is a classic case of a criminal justice system that is not working. I heard all these lamentations about human rights in China, but you tell me, how much worse can a situation get, when innocent people every day in this country are called to testify—and, frankly, as good citizens they should be willing to testify—but when they get in the grand jury room with the U.S. attorney, they are subject to his mercy. He can ask them—he can ask this woman, first crack out of the bat, in this investigation of a parking meter scandal:

"Have you been faithful to your husband ever since you got married?" He can do this because there is no requirement of relevancy in the grand jury.

"Well, as a matter of fact, I think that's personal."

"Ma'am, I'm asking you a question. I want an answer. I understand that one of your children is gay; is that true?"

"Well, what's that got to do with anything?"

"Ma'am, I'm asking you the questions. I'm the U.S. attorney here, and I can ask anything I want. Is it true one of your children got picked up one time on a pot charge when he was a senior in high school?"

"What is that relevant to?"

"Ma'am, as I said, I'm asking the questions here. Now, I'm asking you, and you are legally required to answer truthfully."

Senators, I'm going to tell you something. You think this is farfetched? Believe me, believe me, it is not. It happens all the time.

You ask yourself this question: How would you like to be in the grand jury room without a lawyer—nobody—and you ask the U.S. attorney:

"Look, I would like to go outside the room. My lawyer is sitting just outside the door. I would like to talk to him and ask him whether I should answer this question or not."

"You have a right to do that, ma'am. Go right ahead."

She goes out. After awhile, he asks her another one of those silly questions. And she says, "You know, I don't know how to answer that. I need to talk to my lawyer again."

The third time she does that, these grand jurors start nudging each other. "This woman is hiding something. She knows a lot more than she is willing to talk about. Why is she going outside to talk to that lawyer so much if she doesn't have something to hide?"

That is the psychological part of trying lawsuits. I am telling you, I was a trial attorney for 18 years before I became Governor. I have seen prosecuting attorneys, I have seen local district attorneys, I have seen U.S. attorneys, eaten up with political ambition. And when they are eaten up with political ambition, do you know what they want? All the notches in their belt they can get. They want to be able to boast, "I never failed to get an indictment I asked for."

The chief judge of the State of New York once said, "You can get a grand

jury to indict a ham sandwich if you ask them to." I had a U.S. attorney tell me one time, "I have never failed to get an indictment from a grand jury." I can tell you, if he had ever failed to get one, that would be one of the most abysmal failures I have ever heard of, because I know all kinds of U.S. attorneys and DA's all over this country who have been able to get an indictment every time they ask for one. Do you know why? Because there are 23 grand jurors sitting there who know nothing except what the U.S. attorney proposes to tell them, only what the witnesses he decides to call will tell them.

Mr. President, I am not talking as any bleeding-heart liberal. I have defended a few criminals in my life. A couple of them I felt pretty sure were guilty, but the first thing I learned in law school is that this is a nation of laws; everybody is entitled to a lawyer, and to a fair trial.

The grand jury system has gotten so bad that 27 States in this Nation have abolished grand juries. You think about that. The States are always ahead of us in Congress. Mr. President, 27 States have abolished the grand jury system, and 18 States have laws that allow the attorney for a witness to sit in the grand jury room with the witness. Now, what do these states know that we don't know?

My amendment is just about as simple as you can make it. It says one thing, that a witness who has an attorney and wishes that attorney to sit in the grand jury room with them may do so. What is wrong with that? You tell me. Anybody, tell me.

If a U.S. attorney is afraid to ask questions because he doesn't want her attorney to hear, what is objectionable about it? And why should he? Why should a U.S. attorney fear asking any question that he is going to ask later, perhaps, in the courtroom anyway? This is supposed to be a fair fight. Is he afraid of the truth?

Do you know why we have a grand jury system? Because the Federal Government was not to be trusted and the Founding Fathers put the requirement in the Fifth Amendment: We will have a grand jury system. And the reason we cannot abolish it is because it is in the Constitution, and I would not change that. The States are not so fettered, and they are abolishing it right and left because they know that grand jury system is often not fair. It is just short of a Star Chamber proceeding because only one side of the case is heard.

In medieval England people were tried by ordeal—they were thrown into the lake or had their hand dunked in boiling water. If they survived the ordeal, they were innocent. If they didn't, it didn't make any difference. That is what was called a Star Chamber proceeding. That is what people used to go through when they missed church. They were put in the stocks or they were subjected to boiling water or a whole host of other things.

So that is the reason that many of the Founding Fathers came here after being abused and abused and abused in England. Because they were mostly a poor class, and they didn't trust Government. Because they had not trusted the King, they knew the King had all the cards, and they wanted to level the playing field and they wanted it to be a fair fight. I can tell you, we do not have a fair fight now in the grand jury.

So, isn't this just simple justice, to allow a witness to have a lawyer? Is this complicated for anybody listening, that a witness who is not charged with anything should have a right to a lawyer in the courtroom, not sitting outside? Do you think a U.S. attorney would start off asking a Senator's wife if she had been faithful to him all of her life if her attorney was sitting there? I promise you he wouldn't. Do you think he would ask if her children were gay or had ever smoked pot if her lawyer was sitting in the room? Of course, he wouldn't. This is about simple deterrence of misconduct.

I ask those who will oppose this amendment, What is the prohibition now under existing law to keep a U.S. attorney from asking those kinds of abusive questions, and worse? There is none.

I remember one time talking with Senator McGovern when he was a Senator. One of these questions came up about charging everybody with everything and vetting everybody who came through. If you get nominated to an executive position, you have to go through a kind of inquisition. George McGovern said, "I want it on the record right now: I stole a watermelon when I was 12 years old."

I can tell you, what we have right now in the grand jury system is not fair, and every Member of this body knows it. I am not defending criminals. I am not saying give criminals an upper hand. What I am saying is give witnesses the same choices you give a defendant, the criminal, which is the right to the assistance of counsel, as guaranteed in the Sixth Amendment.

Mr. President, I hope everybody understands this issue. I don't want to belabor it. It is the kind of amendment that doesn't need a lot of discussion. But you think about this, I say to Senators, your wife or family member who is as innocent as a newly ordained nun, who never did anything wrong in her life, is going before the grand jury system hardly knowing why she has been called and then subjected to day after day after day of testimony, or even 2 hours of testimony—whatever it is. At least put her on a par with the criminal defendants who are arrested and have to be placed on trial, who have a right to an attorney.

Mr. GREGG. Will the Senator from Arkansas yield for a unanimous consent request?

Mr. BUMPERS. I will be happy to yield.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate proceed to debate the following amendments—one which we are now debating—with votes in relation to the issues to be postponed to occur on Wednesday, July 22, at 9:40 a.m.

I further ask unanimous consent that no second-degree amendments be in order, and that all debate be concluded this evening; that there be 2 minutes for debate for closing remarks prior to each vote in the stacked sequence, with the exception of the vote in relation to the Bumpers amendment, on which there will be 10 minutes for closing remarks. The amendments to be debated are as follows: Moseley-Braun, an Internet prevention amendment; Graham of Florida, sheriff's auction; and Bumpers amendment on grand juries, which we are presently debating.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. In light of this agreement, there will be no further votes this evening, and the next votes will be in a stacked sequence beginning at 9:40 a.m.

Mr. BUMPERS. Mr. President, that is a perfectly fair, legitimate undertaking, and I will not be much longer. Senator LEVIN is here and wishes to speak on the amendment, and any other cosponsors of the amendment who are listening should feel free to come over and speak, if they choose.

The point I was about to make, and I will close on this—is this: The American people are fairly happy right now because the economy is going well. But I can tell you, there is one underlying sentiment in this country that is undeniable, and it is that the vast majority of the people in this country don't think we, who live in this rarefied atmosphere, know what their everyday lives are like, and they are right. They are right.

Here is an opportunity to restore people's confidence in the system. It doesn't happen often. One of the reasons this amendment may not prevail is because in the scheme of things, with 268 million people in this country and probably no more than, what should I say, 10,000, 20,000 at most will appear before grand juries in any given year and answer questions, who cares about 10,000 people out of 268 million? I care. If I didn't, I wouldn't be staying here tonight to offer this amendment.

I first started to object to voting on this in the morning, but the more I thought about it, the more I thought that it might be good. It might be good for Senators to reflect on this overnight and to think about the fact that justice denied to one single soul is an aberration to a free nation.

I sincerely hope people will think about this and think about it in terms of their own personal lives—not some obscure thing you read in the Washington Post every morning or the New York Times—but you think about some of these things happening to people, and ask yourself: How would I feel

about that? And, if a member of your family were involved, wouldn't you wish that this amendment was in place as a matter of law?

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to my distinguished colleague from Arkansas and his very literal discussion of the grand jury process. It isn't quite as simple as my colleague is explaining.

The reason we have a grand jury process and the reason we don't allow attorneys in there is because that process is to remain secret. Under rule 6(e) of the Federal rules, people are not allowed to talk about what happens within the grand jury—certainly the prosecutors are not allowed to talk about it. That doesn't mean they have to be totally, meticulously unable to talk about the cases that they are handling. But basic 6(e) grand jury testimony is not permitted to be talked about, and there is a reason for that. There is a reason for not allowing attorneys into the grand jury proceedings.

The distinguished Senator from Arkansas seems to have the opinion that in almost every case, or at least in many cases, prosecutors will act irresponsibly, improperly, will take advantage of witnesses, will abuse the law. And I do not believe that is the case.

But one reason why grand jury proceedings have been basically secretive is because, let us say the prosecution was doing a major investigation of organized crime. You can bet your bottom dollar with every witness who goes before that grand jury they would have the same organized crime attorney or attorney representing organized crime or those organized criminals in that grand jury proceeding. Every one of them would want that attorney there, except those who are blowing the whistle on the criminals for whom the grand jury is being held to begin with.

In other words, it would be almost impossible to ever get a witness to come forward in grand jury proceedings of any consequence involving organized crime, and sometimes not so organized crime, because the minute that person appeared, it would be known who literally was testifying against the people whom the prosecutors were trying to bring the actions against.

So it isn't quite as simple as the distinguished Senator has said, although I share some of his concerns. If there is any evidence that grand jury proceedings have been used to abuse witnesses or have been used to seduce witnesses into incriminating themselves, or have been used to ask questions that are ir-

relevant, such as some of those suggested by my distinguished colleague, then, yes, I agree with him, something ought to be done to prevent those types of things from happening, and perhaps we should look at this whole area.

On the other hand, we have suggested to him that the way to do this would be, of course, to let the judicial conference look at this and make recommendations and really look at all sides of this issue so we do not go into this half cocked and throw out a system that has served this country well over 200 years just because there are some alleged occasional prosecutors who might abuse the process.

It is not quite as simple as people try to make it seem. The grand jury proceeding has served this country well for well over 200 years. And, yes, some of these issues that are raised are ones that trouble me as well. But before we throw this out and before we decide to allow attorneys in the room, then it seems to me we ought to at least have a thorough study to determine whether throwing it out is the thing to do, whether that is going to really be a better process than what we have today. I don't think it will be.

But it does not take many brains to realize the current grand jury process is one-sided. The prosecutor can present whatever the prosecutor wants. And unscrupulous prosecutors can bring an indictment against almost anybody by just basically asking the grand jury to do it, because there is nobody in there to represent the rights of the accused.

The distinguished Senator does raise some very important issues, but I would prefer that we look at this in a very broad-based study that really looks at the pros, the cons, the good, the bad, and helps us to make a determination here. If, after a study like that, we find that the distinguished Senator is primarily right, and that there are many injustices that occur through grand jury proceedings, then I would be the first to join him in making the changes that he would request here this evening.

But frankly, I think that is the type of thing that should be done, that should be done carefully and deliberately. And we should not throw out 200 years of history and 200 years of grand jury proceedings that have served this country at least ostensibly very well because we are concerned that there may be some abuses of this particular process in some instances.

My experience has been that there are very seldom abuses, that the system works well, that it is a system that can bring indictments against those who deserve indictments brought against them; and especially in the area of organized crime, it is a very useful and worthwhile system.

Having said that, that does not mean that I am ignoring what my distinguished friend and colleague has said or what he believes, because I myself

have some concerns, as he does. Personally, I believe that in most instances it is a good thing to give people the right to have their counsel there. And remember, grand jury proceedings can bring down indictments but they cannot convict people.

On the other hand, once the indictment is brought down, that amounts to a criminal defense that must be waged in almost every case. So I hope that I can talk my colleague into having a major, major review and study of this rather than doing something that literally throws out the system or at least changes the system dramatically in such a way that might have very detrimental effects in our getting to the bottom of organized crime, to the bottom of organized criminal conduct with regard to drugs, to the bottom of criminal activity in general where witnesses might be intimidated or afraid to even appear before grand juries.

The more we do this, I think the more we are going to find that some of those concerns may outweigh some of the concerns that the distinguished Senator has, because I do not believe that you can point to many instances as a whole—as a whole—where the feelings or complaints of the distinguished Senator from Arkansas are actually fulfilled.

Currently, all witnesses may leave the grand jury proceeding or grand jury room to consult with their attorneys anytime they want. Now the Senator makes a good point when he says, How is that person going to know whether they are incriminating themselves if they are not skilled in the law, if you have a skillful grand jury prosecutor in there asking questions? And that is a tough question to answer.

But the fact of the matter is that if they have an attorney to begin with, that attorney is going to say, "Don't answer anything unless you talk to me, so tell them after each question you want to come out and talk to me." That has been my experience where you have attorneys who are concerned about their clients going in before the grand jury. And there is a way to be represented by an attorney to not say one word or to answer one question without continuously going out and discussing it with your attorney. So there is a protection.

The difference is that, if I am correct—and I believe I am—there are instances where the grand jury proceeding works better than any other system we have ever had, especially in the area of organized crime. I would be very hesitant to throw out that system without the study by those who are experts in this field and those who really can make a difference in determining just what is right and what is wrong here.

But having said that, I have raised these concerns. I hope my colleague will consider having a study. I would join with him in that. We can place a limited period of time on it, and if that study proves to augment his feelings

and proves his thesis here, then I may very well join with him in making the changes that he would like to make here today.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3243, AS MODIFIED

Mr. BUMPERS. I ask unanimous consent that I be permitted to send a modification to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place in title II of the bill, insert the following:

SEC. 2. GRAND JURY DUE PROCESS.

(a) IN GENERAL.—Rule 6 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (d), by inserting "and counsel for that witness (as provided in subdivision (h))" after "under examination"; and

(2) by adding at the end the following:

"(h) COUNSEL FOR GRAND JURY WITNESSES.—

"(1) IN GENERAL.—

"(A) RIGHT OF ASSISTANCE.—Each witness subpoenaed to appear and testify before a grand jury in a district court, or to produce books, papers, documents, or other objects before that grand jury, shall be allowed the assistance of counsel during such time as the witness is questioned in the grand jury room.

"(2) POWERS AND DUTIES OF COUNSEL.—A counsel retained by or appointed for a witness under paragraph (1)—

"(A) shall be allowed to be present in the grand jury room only during the questioning of the witness and only to advise the witness;

"(B) shall not be permitted to address the attorney for the government or any grand juror, or otherwise participate in the proceedings before the grand jury; and

"(C) shall not represent more than 1 client in a grand jury proceeding, if the exercise of the independent judgment of the counsel on behalf of 1 or both clients will be, or is likely to be, adversely affected by the representation of another client."

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to say a few things about grand juries. I spent 15 years as a Federal prosecutor working with grand juries on a regular basis. And people say, "Oh, it's a secret proceeding." Well, would you rather have your witnesses have to go and testify in open court?

You see, the purpose of a grand jury is simply to determine whether there is probable cause to believe a crime has been committed and whether the defendant probably committed it, to set that case for trial. It is a protection. Some say, "Well, just let the prosecutors indict and eliminate the grand jury because the grand jury will indict a ham sandwich." I heard that here today. Grand juries will not indict a ham sandwich.

You have to present evidence to them sufficient for them to understand the charge; and the evidence that is presented is before they will return an in-

dictment and set the case for trial. At trial, the burden of proof is not "probably committed a crime"; at trial the burden of proof is "beyond a reasonable doubt"; to a moral certainty sometimes the judge charges the jury. So that is where the trial takes place.

Now, I recall a line by Justice Macklin Fleming in California. He said, "Perfect justice is not achievable in this life. In the pursuit of perfect justice, we destroy what justice is achievable."

Well, I just say that an obsession with everything becoming more and more complicated is not the history of our Nation and its criminal law. The founders of our country realized you needed a trial and that people who are accused of crimes ought to have a chance to present their defense fully before a jury of 12 citizens, with their lawyer there to argue, debate, object, and do everything possible to defend that client in that trial, but there ought to be a vehicle to decide whether a case should go forward. They decided it was better for the defendant and for the witnesses when a charge is brought by virtue of a grand jury investigation before citizens of the community, if the testimony is taken in secret, so that if the evidence is not sufficient, the public may never even know that the individual was under investigation and his reputation would not be stained.

I submit to you that sometimes grand juries will not indict. And also, in the course of an investigation, a prosecutor may discover, as his witnesses are called and put under oath, that the good case he thought he might have had was not sufficient. Many times I have pulled a case after presenting evidence before a grand jury because I was not confident, and the grand jury wasn't confident, that there was enough evidence to proceed to indictment. Sometimes I presented grand jury indictments to a grand jury and thought there was evidence to indict and a grand jury declined to do so. That is the power and privilege they have been given under our laws in this country.

Based on my experience, the grand jury system certainly is working. It has served us well for 200 years. I think we ought not to, this late night, without any debate or without any analysis or without any hearings, alter this historic principle, which I believe protects citizens from embarrassment as well as unfounded charges.

I have to suggest and note for the Record, Mr. President, that the Department of Justice strongly opposes this Bumpers amendment. They don't think it is the way we ought to be going now. I share that feeling, and that shows that both I, as a Republican Senator, and the Department of Justice agree on this. I think we are making a big mistake to go forward at this time without having considered precisely what we are doing.

There are a number of important reasons. The chairman of the Judiciary

Committee has stated quite a number of those in his excellent legal way, demonstrating his legal skill and analysis of important issues that come before us. He has made that point. I will not take any more time on it. I feel very, very strongly about this issue. I think it would be a colossal error for this body, without any hearings, to change this historic principle, because I will tell you, it will tie the grand jury in knots. You will have another adversarial hearing. You will have two trials instead of one. It will not further the ascertainment of truth, which is the purpose and nature of a grand jury.

I know others need to talk, Mr. President. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I support the amendment of the Senator from Arkansas. It embodies a historical principle that has been embedded in most of our psyches and consciousness, which is that an individual has a right to counsel—particularly an individual involved in the criminal justice system has a right to counsel.

Our good friend from Utah says, well, someone appearing before a grand jury can leave the room and get counsel. Indeed, he knows of cases, as do I, where somebody who is in front of a grand jury leaves the room after every question to go outside the door and talk to an attorney.

What is the common sense of requiring somebody who is entitled to counsel not to be able to get that counsel inside the grand jury room? What is the common sense of forcing somebody in front of the jury to leave at the end of each question—leave the grand jury room to go talk to his or her attorney? How does that meet the ends of either common sense or justice—to force that rigmarole, that process, when we come to something as fundamental and basic as the right to counsel?

I don't think anyone here questions that there is a right to counsel under our Constitution. The question is, Why not then permit that right to be exercised inside the grand jury room? Why not permit the advice to be given to somebody inside the grand jury room, rather than to force that person at the end of each question to say, "Excuse me, I want to go outside the grand jury room to consult with my counsel"?

The only argument that I have heard against permitting that is that, somehow or other, that would tie a grand jury in knots, as our good friend from Alabama just said. But under this amendment, that is not possible, because under this amendment, as modified, it carries out the original language of this amendment, which says that, "A counsel for a witness shall be allowed to be present in the grand jury room only during the questioning of the witness and only to advise the witness, and shall not be permitted to address the attorney for the government, or any grand juror, or otherwise par-

ticipate in the proceedings before the grand jury."

That is it. This amendment would only permit the attorney, which every person under this Constitution has a right to at least hire, to give advice to a citizen inside the grand jury room instead of forcing that person to leave each time. I think it is a modest amendment. It is a modest amendment because it makes sure that we will not tie up a grand jury in knots. It is a modest amendment because it only says that what we know is right, that someone ought to have a right to counsel when they become involved in the criminal justice system—something that we know is right and something that we know is guaranteed, which is the right to counsel, to be exercised in a sensible way, in a way that doesn't undercut and diminish that very right.

To be forced to leave the grand jury room after each question, in front of that grand jury, it seems to me, undermines the very right to counsel which is guaranteed in the Constitution. But, at a minimum, we, it seems to me, as people who want to defend this Constitution, should say, if there is a right—and there is one—that it ought to be exercisable in a commonsense way.

In 90 percent of the grand jury proceedings, the witnesses are law enforcement officers or other governmental officials who are not likely even to have an attorney or want an attorney. But in those other 10 percent of the cases, it seems to me only fair, only common sense, to avoid the absurdity of making a witness leave the grand jury room after every question in order to exercise a constitutional right to the advice of counsel.

I want to close by emphasizing the words of this amendment, because I think they are very important: "The counsel that a witness is allowed to have in the grand jury room under this amendment is present only during the questioning of the witness and"—these are the key words—"only to advise the witness and not to address the attorney for the government or address any grand juror, or to otherwise participate in the proceedings before the grand jury."

Many of our States allow the attorney to be inside of the grand jury room. Some States do, some States don't. But we have to make up our own minds as to what makes the most sense in this Federal system. It seems to me the most fundamental form of common sense. Forcing a person to get up, walk through the door, and leave the room to talk to someone, I believe, diminishes and undermines the very fundamental right that people have to the advice of counsel.

So there is no tying up in knots in this amendment.

This amendment precludes any possibility that an attorney inside the grand jury room will address the court, will address the grand jurors, will address the prosecutor. All that is per-

mitted under this amendment, and all that is required under this amendment, is that the counsel for the witness be allowed to be present in the grand jury room, and only to advise his or her client.

I want to commend the Senator from Arkansas for his extraordinary courage and, as always, his eloquence in presenting a case.

I think that if we will all think about this basic right overnight, hopefully the majority of this body will do what at least a number of States have done, and that is to permit the attorney to be inside the grand jury room solely for the purpose of advising the witness.

I thank the good Senator for his leadership.

TECHNICAL ASSISTANCE FUNDING

Mr. STEVENS. Mr. President, one of the most significant economic problems facing Alaska is the underdevelopment of the business sector in our rural areas. Alaska's vast size, lack of highway infrastructure, and numerous small, remote communities present unique problems requiring unique solutions. If we want to empower people to move from assistance to self-sufficiency we have to grow small businesses in rural Alaska. During the conference on the Commerce, Justice and State appropriations bill, I will ask the conferees to address these issues.

Specifically, my State is suffering from an acute shortage of technical assistance funding to provide training and other services specific to rural needs. This is a need that can be satisfied under SBA's 7(j) program. Additionally, I am informed that regulations promulgated in 1995 have virtually eliminated all small business lending by banks and other financial institutions in Alaska under SBA's 7(a) lending program. Before 1995, the 7(a) program provided critical financing in rural Alaska, and I intend to explore ways to make the program viable once again in Alaska. Finally, Alaska's size and remoteness will require SBA to adopt high-tech solutions to facilitate service delivery. I will seek to create an electronic assistance center within the SBA specifically designed to provide Internet connectivity, outreach and training to rural areas specifically in Alaska.

I look forward to working with Senator GREGG and his staff and others on this issue. It will be within the scope of the conference, I believe.

IDAHO'S VERY HIGH PERFORMANCE BACKBONE NETWORK SYSTEM

Mr. KEMPTHORNE. Mr. President, I rise today to discuss Idaho's Very High Performance Backbone Network system (vBNS).

The State of Idaho is in a strategic position to increase its economic base by strengthening collaboration on research and development projects between the state's universities, state government and business and industry.